

THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITIION NO.25470 OF 2002

DISPOSED OF ON 05-10-2005

BETWEEN:

ERRAGUDLA MALLESH AND ANOTHER .. PETITIONERS

AND

THE DISTRICT COLLECTOR, HYDERABAD RESPONDENTS

AND ANOTHER

**THE HONOURABLE SRI JUSTICE
B.SESHASAYANA REDDY**

WRIT PETITION NO.25470 OF 2002

ORDER :

1. This Writ Petition has been filed by the petitioners with a prayer to issue a Writ of Mandamus declaring the action of the respondents in threatening to dispossesses the petitioners from their house plot bearing H.No.8-2-293/82/2, on Plot No.2 in

S.No.129/102 (old), 403/25/2 (new), admeasuring 300 square yards situated at Shaikpet village, Yousufguda, Hyderabad.

2. The petitioners claim to have purchased plot No.2 admeasuring 300 square yards comprising H.No.403/25/2 under a registered sale deed dated 24.9.2001. According to them, they constructed two rooms for watchman to protect the property. While so, the Officers of the respondents demolished the room highhandedly on 21.12.2002. Apprehending dispossession, the petitioners have filed this writ petition.

3. The respondents filed counter affidavit. It is state din the counter affidavit that the petitioners were never in possession of the land and that when the petitioner attempted to trespass into the Government land by erecting sheds, the Mandal Revenue Officer, Shaikpet, who is the custodian of the lands, averted their encroachment. I deem it appropriate to refer paragraph 14 of the counter affidavit and it reads as under:

“ 14. In reply to para 4 of the petitioner’s affidavit, it is submitted that as already explained in the above paras the land in question is Government land forming part of T.S.No.1/1A/1, Block B, ard-10 correlated to Sy.No.403 of Shaikpet village. The petitioner has never been in possession of the said land. This respondent erected a signboard indicating the land is Government land and the same has been in the possession of the Government. But the petitioner has trespassed into the Government land by erecting the sheds and that the Mandal Revenue Officer, Shaikpet who is the custodian of Government lands as prevented the said encroachments. Therefore, the averments made by the petitioner in this para are baseless and as such denied.”

It is further averred in the counter affidavit that there is no such Survey Numbers as 129/102 in Shaikpet village as per revenue and survey records and the land claimed by the writ petitioner is Government land falling in T.S.No.1/1A/1, Block-B, Ward 10 correlated to Sy.No.403 of Shaikpet village. It is also stated in the counter affidavit that the purported assignee Smt.Rasool Bee has filed W.P.No.6473 of 1995 against the Government of Andhra Pradesh represented by Chief Secretary, A.P., Hyderabad and two others with a prayer to issue direction to the respondents to effect mutation of the Revenue records in respect of Ac.12.00 of land in alleged

Sy.No.403/25/2 (New) (Sy.No.129/102 old) of Shaikpet village. The said writ petition was dismissed for default on 22.12.1999. Smt.Rasool Bee also filed claim through her Advocate stating that she was assigned an extent of Ac.12.00 in the alleged Sy.No.129/102 (old),and Sy.No.403/25/2 (new) of Shaikpet village. After thorough examination of the record, the claim was rejected by the Joint Collector, Hyderabad in Proceedings No.F4/2902/86, dated 14.1.1987, as the alleged Sy.No.129/102 is non-existence and it is a fictitious survey number.

4. Heard learned counsel appearing for the petitioners and the learned Government Pleader for Assignment appearing for the respondents.

5. Learned counsel appearing for the petitioners submits that the petitioners purchased the property under a registered sale deed dated 24.9.2001 from Smt.Rasool Bee and since then they have been in possession and enjoyment of the same. In support of his submissions, he refers a copy of the sale deed and photographs. He further submits that the respondents-authorities have demolished the constructions existing on the site and it indicates the possession of the petitioners over it and unless he is evicted through the process of law, the respondents' highhanded interference is illegal and the same is required to be prevented by issuing necessary writ or direction.

6. Learned Government Pleader for Assignment appearing for the respondents submits that the claim of Smt.Rasool Bee from whom the petitioners claimed to have purchased was negatived by Joint Collector by his proceedings dated 14.1.1987 and therefore the contention of the petitioners cannot be accepted.

7. A fact remains that Smt.Rasool Bee who is predecessor in interest submitted an application before the Joint Collector, Hyderabad for mutation of her name in the revenue record. The Joint Collector after thorough enquiry rejected the claim of Smt.Rasool Bee and passed orders to that effect on 14.1.1987. Copy of the order has been placed on record. The relevant portion of the order needs to be noted and it is thus:

“ Document No.5: Petition dated 12.1.1982 of D.Yadaiah, s/o B.Pulliah,
GPA for Rasool Bee addressed to S.I. Police, P.S., Banjara Hills,
Hyderabad:

It is an unsigned copy of letter in which it is mentioned that Smt.Rasool Bee is absolute owner and possessor of Ac.8-00 of land bearing old Sy.No.129/109 and new Sy.No.129/96. The Sy.Nos mentioned in this letter are different from the Sy.Nos. mentioned in the registered G.P.A. Deed. The extent is also at variance. This variation and contradictions shows that the G.P.A. Holder has addressed the letter for the lands to which he is not a G.P.A. holder.

The assignment is not genuine, as such no right, title or interest is conveyed to the assignee in respect of Sy.No.129/102 of Shaikpet village.

Therefore, in view of the reasons shown in the proceeding paragraphs, it is evident that Smt.Rasool bee has no claim over Sy.No.129/102 as it is Government land.”

The petitioners claim to have purchased the property under registered sale deed dated 24.9.2001. By the date of the said sale, Smt.Rasool Bee had no title over it in which case the petitioners cannot get better title than of Rasool Bee.

8. Accordingly, I find that this writ petition is devoid of merits and the same is hereby dismissed. No costs.

Dated: 05-10-2005. (B.Seshasayana Reddy,J)

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